

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

R.R.; G.J.; R.G.; all others similarly situated; and
DISABILITY RIGHTS WASHINGTON,

No. CV17-5080BHS

Plaintiffs,

V.

ORDER:

WASHINGTON STATE DEPARTMENT OF SOCIAL AND HEALTH SERVICES; PATRICIA LASHWAY, in her official capacity as Acting Secretary of the Department of Social and Health Services; SPECIAL COMMITMENT CENTER; WILLIAM VAN HOOK, in his official capacity as Chief Executive Officer of Special Commitment Center.

- (1) PRELIMINARILY APPROVING SETTLEMENT AGREEMENT;
- (2) APPROVING CLASS NOTICE; AND
- (3) ESTABLISHING A FINAL SETTLEMENT APPROVAL HEARING AND PROCESS

Defendants.

Upon consideration of the Parties' joint motion pursuant to Federal Rule of Civil Procedure 23(e) for an order preliminarily approving the settlement of this Action ("Motion for Preliminary Approval"), and in accordance with the Parties' Final Settlement Agreement, which together with the Appendices annexed thereto, sets forth the terms and conditions for a proposed settlement of the Complaint in this action, the Court, having read and considered the Settlement Agreement, orders as follows:¹

¹ The initial capitalization of terms used in this Order and not defined herein shall have the meanings assigned to them in the Settlement Agreement.

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- (3) ESTABLISHING A FINAL SETTLEMENT APPROVAL HEARING AND PROCESS - 1

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1 1. Based on the record before it, the Court tentatively finds, pursuant to Federal Rule
 2 of Civil Procedure 23(e), that the Settlement Agreement attached as *Appendix 1* to the Motion for
 3 Preliminary Approval, is fair, reasonable, and adequate. The Court finds that: (a) the Settlement
 4 Agreement resulted from extensive arm's length negotiations; (b) there is no evidence at this stage
 5 of the proceedings of fraud, collusion, or overreaching or that the rights of absent class members
 6 were disregarded; and (c) counsel has sufficient experience in similar litigation to propose the
 7 Settlement Agreement. The Court's preliminary approval is subject to change pending the
 8 outcome of the final settlement approval hearing ("Fairness Hearing") established herein.

9 2. The Court finds that the proposed Class Notice, attached as *Appendix 2* to the
 10 Motion for Preliminary Approval, meets the requirements of Federal Rule of Civil Procedure 23,
 11 due process, and the applicable law, in that it fairly and adequately describes the terms of the
 12 Settlement Agreement, including the process for payment by Defendants of the attorneys' fees and
 13 costs sought by Class Counsel; gives notice of the time and place of the Fairness Hearing; and
 14 describes how a class member may comment on, object to, or support the Settlement Agreement.

15 3. The Court authorizes and directs Defendants or their designated agent to provide
 16 the list of class members to Class Counsel, as described in Section I (B)(3)(d)(i) of the Settlement
 17 Agreement, who shall, within 30 days of the date of this Order, provide the Class Notice and a
 18 copy of the Settlement Agreement to all identified class members. Within 15 days of this Order,
 19 Class Counsel will produce a video, as described in Section I (B)(3)(d)(iv) of the Settlement
 20 Agreement, explaining the scope of the agreement and providing information about the Fairness
 21 Hearing. Within 45 days of this Order, Class Counsel will conduct two group trainings at the SCC

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1 and one group training at each SCTF regarding the terms of the Settlement Agreement and the
2 Fairness Hearing process. Within 15 days of this Order, Defendants shall prominently post the
3 Class Notice and a copy of the Settlement Agreement on each unit at the SCC and in each SCTF.
4 Defendants and Class Counsel will submit declarations to the Court confirming their compliance
5 with the class notice procedures contained in this Order and the Settlement Agreement within 60
6 days of the date of this Order.

7 4. The Court concludes that direct delivery of the Class Notice, posting on the units
8 at the SCC, the use of a short explanatory video, and group trainings, is the best notice practicable
9 under the circumstances and in light of the cognitive disabilities of class members, and complies
10 with the requirements of Federal Rule of Civil Procedure 23, due process, and any other applicable
11 law.

12 5. A Fairness Hearing to consider whether the proposed Settlement Agreement is fair,
13 reasonable, and adequate and should be finally approved is scheduled for May 2, 2017 at 2:30 p.m.
14 at the Special Commitment Center on McNeil Island, at 1403 Commercial Street, Steilacoom, WA
15 98388, at least 60 days after date of this Order.

16 6. A class member who wishes to comment on or object to the Settlement Agreement
17 must submit written comments and/or objections to the Court. If a class member is unable to submit
18 written comments due to disability, Class Counsel will assist the class member in drafting the
19 comments or, in the event of a conflict, will assist the class member in identifying another attorney
20 that may assist them in drafting such comments. Written comments must be submitted to the Court
21 no later than April 14, 2017, at least 14 days before the Fairness Hearing.

22 7. A class member who wishes to appear at the Fairness Hearing may do so if written
23 notice is submitted to the Court, with copies to counsel, stating that the class member intends to
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1 appear in person or through counsel. In that written notice to appear, the class member must
2 describe the nature of his or her comment or objection. If the class member is unable to draft a
3 written statement due to disability, Class Counsel will assist the class member in drafting the
4 statement or, in the event of a conflict, will assist the class member in identifying another attorney
5 that may assist them in drafting the statement. Written notice of intent to appear must be filed with
6 the Court and mailed to counsel by April 14, 2017, at least 14 days before the Fairness Hearing.

7 8. A Motion for Final Approval of the Agreement, together with any supporting
8 declarations or other documentation, must be filed no later than April 21, 2017, at least 5 days
9 before the Fairness Hearing. Class Counsel shall also mail the Motion for Final Approval to all
10 class members who object to the Settlement Agreement or file written notice with the Court that
11 they intend to appear at the Fairness Hearing.

12 9. Pending final determination of whether the Settlement Agreement should be
13 approved, (a) all proceedings in this action unrelated to the Agreement shall be stayed, and
14 (b) neither the named Plaintiffs nor any class member, either directly, representatively,
15 derivatively, or in any other capacity, shall commence or prosecute against any of the Defendants
16 any action or proceeding in any court or tribunal asserting any of the disputed claims raised in the
17 Complaint.

18 10. The Court reserves the right to adjourn the date of the Fairness Hearing without
19 further notice to class members, and it retains jurisdiction to consider all further applications
20 arising out of or connected with the Settlement Agreement. The Court may approve the Settlement
21 Agreement, with such modifications as may be agreed to by the Parties, if appropriate, without
22 further notice to class members.

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11. If the Court finally approves the Settlement Agreement, including the attorneys' fees set forth in Section II (E)(1)(a) of the Settlement Agreement, Defendants will remit payment to Class Counsel within 90 days of the Court's final approval.

It is so ORDERED this 22nd day of February, 2017.


BENJAMIN H. SETTLE
United States District Judge

Presented by:

DISABILITY RIGHTS WASHINGTON

/s/ David Carlson

/s/ Rachael Seevers

/s/ Anna Guy

David R. Carlson, WSBA No. 35767

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